THE HON'BLE MS JUSTICE G. ROHINI

WRIT PETITION NO.10823 of 2005

Dated 30-11-2005

Between:

K. Veerachinnappa.

….Petitioner

and

The District Collector, Ananthapur,

and four others.

….Respondents

THE HON'BLE MS JUSTICE G. ROHINI

WRIT PETITION NO.10823 of 2005

ORDER:

The petitioner was appointed as a Fair Price Shop Dealer of Pedapalli Village of Puttaparthi Mandal, Ananthapur District, in the year 1999. By proceedings dated 13-07-2004, the third respondent-Revenue Divisional Officer, Penugonda, called upon the petitioner as to why his dealership should not be cancelled on account of the four charges specified thereunder. The petitioner states that though he submitted his explanation on 26-07-2004 denying all the four charges, the Revenue Divisional Officer by order dated 20-08-2004 suspended his authorization with immediate effect observing that the explanation of the petitioner was not convincing, and *prima facie* it was found that he had committed grave irregularities in distribution of essential commodities to the card holders. Aggrieved by the said order, the petitioner preferred an appeal before the second respondent-Joint Collector, Ananthapur. The second respondent by order dated 22-12-2004 allowed the appeal and while setting aside the order dated 20-08-2004 passed by the third respondent, remanded the matter to the third respondent for completion of the disciplinary proceedings as soon as possible duly following the procedure prescribed under Andhra Pradesh Public Distribution System (Control) Order, 2001. The fifth respondent herein, who is a card holder attached to the shop-in-question, filed a revision petition before the first respondent-District Collector, Ananthapur, against the order dated 22-12-2004 passed by the second respondent. The first respondent by order dated 31-03-2005 allowed the said revision petition and while setting aside the order of the second respondent dated 22-12-2004, confirmed the order dated
20-08-2004 passed by the third respondent-Revenue Divisional Officer. The said order dated 31-03-2005 is under challenge in this writ petition.

I have heard the learned counsel for both the parties and perused the material on record.

A perusal of the order dated 20-08-2004 shows that in spite of the fact that the petitioner submitted his explanation dated 26-07-2004 denying all the charges levelled against him, the third respondent failed to consider the same and without recording any finding with regard to the said allegations, passed the order suspending the authorization of the petitioner. The said order does not even appear to be an order of suspension pending enquiry, since in the order itself it was observed that there is no need to conduct further enquiry in the matter. Such a cryptic order which is in the nature of a final order by way of punishment is unsustainable being arbitrary and illegal.

In the circumstances the first respondent was not justified in setting aside the order of the second respondent whereunder the Revenue Divisional Officer was directed to conduct an enquiry into the allegations.

Accordingly, the order dated 31-03-2005 passed by the first respondent is set aside and the third respondent-Revenue Divisional Officer is directed to conduct enquiry in terms of the order of the second respondent dated 22-12-2004. Needless to mention that due opportunity shall be afforded to the petitioner as well as the fifth respondent before passing any order. Such an enquiry shall be completed and appropriate orders be passed in accordance with law as expeditiously as possible, preferably within a period of four weeks from the date of receipt of a copy of this order. Till such time, *status quo* obtaining as on today shall be maintained. No costs.

(G. ROHINI, J)

Date: 30-11-2005

Note: Issue CC in two days.

B/o

ghn